

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ContentGuard Holdings, Inc.,

Plaintiff,

v.

Amazon.com, Inc., et al.

Defendants.

Case No. 2:13-cv-1112 (JRG)

JURY TRIAL DEMANDED

**DEFENDANT APPLE INC'S RENEWED MOTION TO DISMISS AS TO SECOND
AMENDED COMPLAINT PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE
12(b)(6)**

Apple, Inc. (“Apple”) respectfully requests that this Court dismiss plaintiff ContentGuard Holdings, Inc.’s (“ContentGuard”) Second Amended Complaint for Patent Infringement for the reasons set forth in Apple’s pending Motion to Dismiss Amended Complaint Pursuant to Federal Rule of Civil Procedure 12(b)(6) (Dkt. 95) and Apple’s reply in support of that motion to dismiss (Dkt. 127). ContentGuard’s Second Amended Complaint differs from ContentGuard’s First Amended Complaint by adding allegations concerning DirectTV and dropping ContentGuard’s section on “Defendants’ Common Acts of Infringement” at paragraphs 49 through 55 of the First Amended Complaint, none of which changes alter or remedy the deficiencies identified in Apple’s pending motion to dismiss. For the convenience of the Court, a comparison of the changes between the two complaints is attached to this motion to dismiss as Appendix A.

In order to avoid burdening the Court with duplicative briefing, Apple adopts and renews the statements and arguments in Apple’s previously filed motion to dismiss and reply.

If the Court wishes Apple to refile the earlier briefing with references to the Second Amended Complaint, Apple will promptly comply.

Dated: October 31, 2014

Respectfully submitted,

By: /s/ Melissa R. Smith

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a) and served via the Court's electronic filing system on all counsel who have consented to electronic service on this the 31st day of October, 2014.

/s/ *Melissa R. Smith*